

## **Remarks**

### **A. Pending Claims**

Claims 309, 311-321, 323, 324, and 326-341 remain pending. Claims 309 and 326 have been amended. No new matter has been added.

### **B. Section 102**

Claims 309, 311-319, 323, 326, 330, 332-335, 337-339, and 341 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 5,866,430 ("Grow"). Applicants respectfully submit that the present claims are patentable over Grow.

Amended claim 309 includes a combination of features including, but not limited to: "a supporting member comprising a plurality of cavities fabricated within the supporting member according to predetermined spacings to form an ordered array." Support for the amendment associated with this claim element may be found throughout the specification, and the Office is pointed to at least page 7, lines 24-26; page 22, lines 3-20; and page 75, lines 10-12 for examples. Grow does not include at least such features.

Grow discloses porous materials, and the Office has taken the position that such materials constitute a "supporting member," while the pores constitute a "cavity." *See* Advisory Action dated April 21, 2006, page 2. Applicants respectfully disagree.

At column 20, line 67-column 21, line 4, Grow states that its "bioconcentrators" may be immobilized on a porous supporting surface or within a film or porous medium. At column 37, lines 27-31, Grow discloses that a flexible tape is "preferably porous and coated with a thin, rough film of silver." A picture of such a tape (positioned about a spool) is provided in Grow's Figure 3d, which is labeled by Applicants below to identify the tape (element 66) and spools (elements 64 and 66):

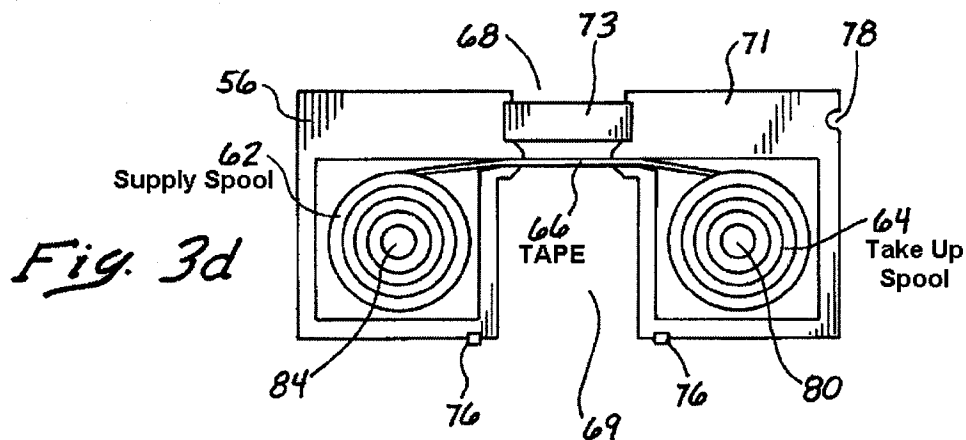
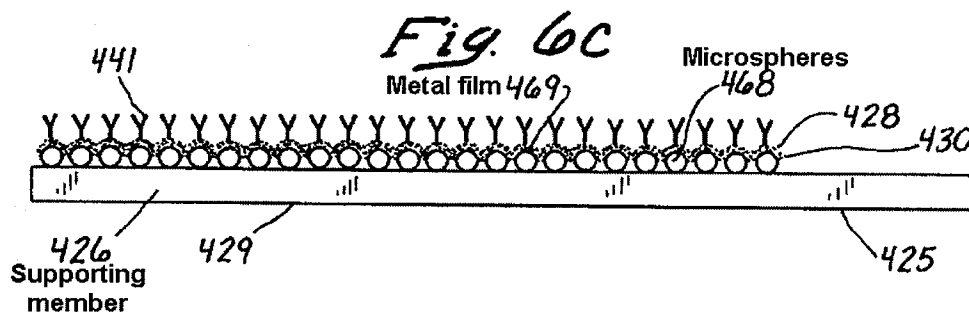


Figure 6c of Grow, along with the corresponding description at column 44, lines 7-28, illustrates how the tape (or other material) can be coated so that a bioconcentrator can be affixed. Particularly, Grow explains that a surface of a supporting material includes microspheres, which are then coated with a sputter-deposited metal film. *See* Grow, column 44, lines 18-26. Then, a bioconcentrator may be affixed to the roughened metal surface. *See* Grow, column 44, lines 26-28. Figure 6c illustrates this concept and is labeled below by Applicants to show the supporting member, microspheres, and metal film:



Nowhere in this description or within any description cited by the Office does Grow disclose or suggest a supporting member comprising a plurality of cavities fabricated within the supporting member according to predetermined spacings to form an ordered array. For example, pores disclosed by Grow are not fabricated. Further, to the extent that supporting member 426 of Grow (see Figure 6c above) is alleged to constitute the “supporting member” of claim 309, it is clear that there is nothing fabricated within it -- instead, material is coated on top of the supporting member 426 of Grow in order to form a roughened surface. Still further, pores of

Grow are not fabricated according to predetermined spacings, much less according to such spacings to form an ordered array. Moreover, with reference to Figure 6c of Grow, it appears that Grow also does not contemplate at least a situation in which a particle is substantially contained within a cavity during use -- instead, Figure 6c simply forms a roughened surface that bioconcentrators sit *on top of*.

For at least these reasons, Applicants respectfully submit that claim 301 and all of its dependent claims are patentable over Grow. Applicants respectfully request removal of this rejection.

**C. Section 103**

**1. Grow + Lavigne**

Claims 324, 327-329, and 331 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Grow in view of Lavigne et al., J. Amer. Chem. Soc. 1998, 120:6429-6430 ("Lavigne"). Applicants respectfully disagree with this rejection.

The rejected claims depend from claim 309, and Lavigne does not cure any of the deficiencies noted above. Namely, Lavigne does not appear to teach or suggest at least a supporting member comprising a plurality of cavities fabricated within the supporting member according to predetermined spacings to form an ordered array, especially in combination with the other features of claim 309. Accordingly, Applicants respectfully request removal of this rejection.

**2. Grow**

Claims 320 and 321 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Grow. Applicants respectfully disagree with this rejection.

Claims 320 and 321 depend from claim 309, and as discussed above, Grow does not teach or suggest at least a supporting member comprising a plurality of cavities fabricated within the supporting member according to predetermined spacings to form an ordered array, especially in combination with the other features of claim 309. Accordingly, Applicants respectfully request removal of this rejection.

**3. Grow + Drexler**

Claim 336 was rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Grow in view of U.S. Patent No. 4,588,665 (“Drexler”). Applicants respectfully disagree with this rejection.

Claim 336 depends from claim 309, and Drexler does not cure any of the deficiencies noted above. Namely, Drexler does not appear to teach or suggest at least a supporting member comprising a plurality of cavities fabricated within the supporting member according to predetermined spacings to form an ordered array, especially in combination with the other features of claim 309. Accordingly, Applicants respectfully request removal of this rejection.

**4. Grow + Wang**

Claim 340 was rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Grow in view of U.S. Patent No. 5,866,430 (“Wang”). Applicants respectfully disagree with this rejection.

Claim 340 depends from claim 309, and Wang does not cure any of the deficiencies noted above. Namely, Wang does not appear to teach or suggest at least a supporting member comprising a plurality of cavities fabricated within the supporting member according to predetermined spacings to form an ordered array, especially in combination with the other features of claim 309. Accordingly, Applicants respectfully request removal of this rejection.

**D. Conclusion**

Applicants submit that all claims are in condition for allowance. Favorable reconsideration is respectfully requested.